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APPLICATION NO.	FILING DATE		FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.		
09/490,868 01/24/2000		Sam E. Kinney JR.	046700-5012	7745			
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	SYLVANIA AV ON, DC 2000			FELTEN, I	DANIEL S		
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				2164			
				DATE MAILED: 02/12/2002	DATE MAILED: 02/12/2002		

Please find below and/or attached an Office communication concerning this application or proceeding.

8

Application No. Applicant(s)									
## Communication Summary Examiner	•		Application No.		Applicant(s)				
Daniel S Felten 2164 Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 9 MONTH(S) FROM THE MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 9 MONTH(S) FROM THE MAILING DATE of FHS COMMUNICATION, THE MAILING DATE of FHS COMMUNICATION, If the period for reply pecifical boxe is least and intiny (30) days, a reply within the statutery minimum of their (30) days will be combined and the communication. If the period for reply specified boxe is least and intiny (30) days, a reply within the statutery minimum of their (30) days will be combined and the communication. If the period for reply specified boxe is least and intiny (30) days, a reply with the statutery within the statutery minimum of their (30) days will be combined and the communication. If the period for reply specified boxe is least and intiny (30) days, will be combined and the communication. If the period for reply specified boxe is least and intiny (30) days, will be combined and the communication. Provided by the Cifical state from their experiments and specified boxes of the provided by the communication. Provided by the Cifical state from their mailing date of this communication, over if timely field, may reduce any senties placed and the replication is placed by the sale of the sale of the mailing date of this communication. Status Provided by the Cifical state from the practice under Experte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s)			09/490,868		KINNEY ET AL.				
Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION. Eaterload or time may be available used the provinces of 3 CFR 1.18(b). In on event, however, may a reply be timely filled able to time may be available used the provinces of 3 CFR 1.18(b). In on event, however, may a reply be timely filled able to the communication. Eaterload or time may be available used the provinces of 3 CFR 1.18(b). In on event, however, may a reply be timely filled able to Sk (6) MCMTHS from the mailing date of this communication. If NO pand for reply is specified above, the manatum statery period will apply and will apple 18 (6) MCMTHS from the mailing date of this communication. If NO pand for reply is apple to the province of the		Office Action Summary	Examiner		Art Unit				
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THE MAILING DATE OF THIS COMMUNICATION. Extensions or time may be available under the provision of 37 CR 1.13(b). In no event, however, may a reply be smely filed after SX (6) MONTHS from the mailing date of the communication. If the proof or mely specified above is less than they (6) (6) specified above is less than they are more in the sail or extended plane of the communication. If allows the sail of the sail or extended prince for early will, by statule, cause the application to become ABANDONED (SS U.S.C. § 133). Any reply received by the Official set than three more had bethe the mailing date of this communication, even if timely filed, may reduce any owner patient term adjustment. See 37 CFR 1.76(b). Status 1) Responsive to communication(s) filed on 06 September 2001. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 1-37 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration. 5) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) is/are objected to. 8) Claim(s) is/are objected to by the Examiner. 10) The specification is objected to by the Examiner. 10) The proposed drawings are required in reply to this Office action. 11) The proposed drawings are required in reply to this Office action. 12) The eath or declaration is objected to by the Examiner. Priority under 35 U.S.C. §§ 119 and 120 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). 14) Acknowledgment is made of a claim for domestic priority unde			pears on the cover	sneet with the c	orrespondence ad	aress			
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Serial Number: 09/490,868 Applicant(s): Kinney, Jr. et al (705/37) Page 2

Art Unit: 2164 Representative: Boswell, M. 33,652 (33,652)

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DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321 may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

- 2. Claims 1-5, 7-14, 16-23 and 25-37 are rejected under the judicially created doctrine of
- obviousness-type double patenting as being unpatentable over claims 1-49 of U.S. Patent No.
- 20 6,199,050 B1. Although the conflicting claims are not identical, they are not patentably
- distinct from each other because Alaia et al discloses a method/system, computer program of
- 22 conducting an online auction between a plurality of potential bidders (potential sellers and a
- buyer; (see fig. 3), comprising the steps of: (a) receiving a plurality of bids from
- bidders/sellers (see claim 1, col. 27, lines 37+; and figs. 3, col. 3, lines 29-32 and lines 46-

Serial Number: 09/490,868 Applicant(s): Kinney, Jr. et al (705/37)

Page 3

Art Unit: 2164 Representative: Boswell, M. 33,652 (33,652)

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53); (b) ranking/comparing the bids in order of attractiveness (see current best bid, fig. 8,
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- col. 4, lines 52-60); and (c) for each bid, displaying the rank determined in step (b) to the
- bidder who made the bid (see col. 3, line 64 to col. 4, line 11); (d) transforming the bid into a
- buyer comparative bid parameter (see Event code, col. 4, lines 52-60);
- as in claims 2, 11, 20, 29, and 34, a method, system, and computer system which
- determines an ordinal rank for each bid that is displayed to the bidder (see fig. 8, col. 4, lines
- 52-60; col. 9, lines 3-11; col. 13, lines 53-67; and col. 14; lines 41-49);
- as in claims 3, 12 and 21, comprises the step of ranking the bids in accordance with
- 9 the price of the bids (see fig. 8, col. 4, lines 52-60);
- as in claims 4, 13 and 22, comprising the step of transforming a bidder comparative
- bid parameter into a comparative bid parameter for the originator of the auction (see col. 3,
- 12 lines 24-32);
- as in claims 5, 14, 23 and 35, comprises a step of receiving transformed bid
- information (see figs., col. 8, lines 41-65);
- as in claim 7, 16 and 25, comprising the additional step of transmitting the rank to the
- bidder (see figs., col. 3, lines 64 to col. 4, line 11);
- as in claim 8, 17, 26 and 30 comprising the additional steps of repeating steps (b) and (
- c) as new bids are received (see col. 4, lines 61-65);

Serial Number: 09/490,868 Applicant(s): Kinney, Jr. et al (705/37) Page 4

Art Unit: 2164 Representative: Boswell, M. 33,652 (33,652)

as in claim 9, 18, 27, 32 and 37 comprises the step of displaying a tie rank to the bidder if the ranking in step (b) results in a tie (see fig. 8); and

as in claims 31 and 36, further comprising means for displaying a tie rank to the seller if a new bid results in a tie rank (see fig. 8).

Claims 6, 15 and 24 are rejected under the judicially created doctrine of obviousnesstype double patenting as being unpatentable over claims 1-49 of U.S. Patent No. 6,199,050 B1 in view of Togher et al (US 6, 014,627).

Alaia et al discloses all the limitation of the claims but fails to explicitly discloses, as in claims 6, 15 and 24, the step of receiving a bid price in a base currency, wherein the bid price is originally defined in a local currency of the first bidder. Togher et al teaches a receiving/bidding at a base price in a base currency, wherein the bid price is originally defined in a local currency of the first bidder (col. 6, line 41 to col. 7, line 65). To integrate the feature of foreign currency conversion found in Togher et al into the invention of Alaia et al would have been obvious because an artisan at the time of the invention of Alaia et al would recognize that vendors/sellers/bidders connected over the Internet to the system could be from different countries. Thus such countries would have different currencies, and have sought to use Togher et al's system to convert one currency into another over the Internet.

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Serial Number: 09/490,868 Applicant(s): Kinney, Jr. et al (705/37) Page 5

Representative: Boswell, M. 33,652 (33.652)

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner

- should be directed to *Daniel S. Felten* whose telephone number is (703) 305-0724. The
- examiner can normally be reached between the hours of 7:00AM to 5:30PM Monday-Thursday.
- 6 Any inquiry of a general nature relating to the status of this application or its proceedings should
- be directed to the Customer Service Office (703) 306-5631, or the examiner's supervisor
- 8 Vincent Millin whose telephone number is (703) 308-1065.
 - 5. Response to this action should be mailed to:

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Art Unit: 2164

Commissioner of Patents and Trademarks

Washington, D.C. 20231

for formal communications intended for entry, or (703) 305-0040, for informal or draft communications, please label "Proposed" or "Draft".

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [daniel.felten@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly

Serial Number: 09/490,868

Applicant(s): Kinney, Jr. et al (705/37)

Page 6

Art Unit: 2164

Representative: Boswell, M. 33,652 (33,652)

set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and

² Trademark on February 25, 1997 at 1 195 OG 89.

DSI

5 February 11, 2002

SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2100